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SENSITIVE

SIPDIS

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SUBJECT: TSA REP DISCUSSES BCAS AND FAMS MOU, VIP SCREENING

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11. (U) SUMMARY: Transportation Safety Administration Representative (TSA South Asia Regional Rep newly stationed in Singapore) Thomas Keene visited New Delhi August 4-7 to meet with Government of India (GOI) officials and U.S. airlines representatives to discuss aviation security issues. During his initial visit, Keene presented a new U.S. text for the Airport Technical Visit Memorandum of Understanding with the Bureau of Civil Aviation Security (the BCAS MOU); sought agreement on the draft Federal Air Marshals Memorandum of Understanding (FAMS MOU); and discussed VIP security screenings, including the recent controversy in India's Parliament about Continental Airline's April screening of Former President Kalam. GOI aviation officials promised to respond to the new BCAS MOU in 10-15 days and seemed close to agreement on the FAMS MOU as well as eager to pursue joint training opportunities. Both sides increased their understanding of the others' concerns about VIP screening, but no resolution was reached. Comment: As evidenced by the media controversy surrounding Bollywood star Sharukh Khan's recent secondary screening by U.S. Customs and Border Protection in Newark and public statements by Minister of Civil Aviation Praful Patel that such incidents will not be accepted by India and will be taken up with the U.S. government, this issue is not going away and is likely to become even more sensitive in the lead-up to Prime Minister Singh's official state visit to Washington in November. END SUMMARY.

BCAS TO COMMENT ON AIRPORT VISIT MOU IN 10-15 DAYS

12. (SBU) During his August 4 introductory meeting with Ministry of Civil Aviation (MOCA) Secretary Nambiar, MOCA Joint Secretary for International Cooperation Sukul, Bureau of Civil Aviation Security (BCAS) D.S. Chauhan and BCAS M.T. Baig, TSA Rep Keene explained that the Airport Technical Visit MOU (BCAS MOU) was in its third iteration. In late 2007, TSA had presented BCAS with the original proposal, BCAS subsequently offered a counter-proposal and he was now delivering the "counter-counter-proposal." Keene said the text was largely agreed. He believed the only significant remaining areas of potential dispute were access control (TSA requested access control of the overall airport versus just access to the area around the gate being used by the airline) and the need to share national aviation security programs. Keene explained that if there were sensitivities about providing such national program information in written form, it could be discussed orally.

13. (SBU) Nambiar commented that these should not be insurmountable

issues and instructed BCAS Chauhan and Baig to review the draft and work to see if an agreement could be reached. Nambiar also instructed Chauhan and Baig to start verbal discussions with Keene and get back to him if there were any additional issues. Nambiar was also receptive to the Keene's mention of the possibility of mutual capacity building programs and consultations after completion of the BCAS MOU. When Keene met with BCAS Commissioner Sahi and Deputy Commissioner Malaviya on August 6, however, they explained that they were not yet prepared to discuss the text in detail, but would provide written comments in 10 to 15 days. (Note: as of August 31, no comments have yet been received. End Note.)

14. (SBU) TSA Keene also met Central Industrial Security Force (CISF) Director General N. R. Das to discuss airport security issues and learn more about the mission and structure of CISF. CISF falls under the Home Ministry and provides security for 282 industries mainly revolving around the energy sector (power, oil), but also at information technology (IT) centers and airports. In previous years CISF only handled security at government facilities but since 2007, after the CISF Act was amended, CISF provides security for private industry entities like Infosys as well. CISF provides security at 57 of India's 84 airports and is responsible for all security at the airport including passenger screening. However, if a law and order problem occurs the Delhi Police and/or National Security Guard will be brought in. Private security groups are also present at the airport, such as G4, but they are employed by the carriers and handle baggage and cargo screenings only.

AGREEMENT APPEARS CLOSE BUT NOT REACHED ON FAMS MOU

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15. (U) During his August 4 meeting with Nambiar, Keene explained that the FAMS MOU sought to formalize in writing what already took place in practice. He shared his understanding that the FAMS MOU had been cleared by MOCA, BCAS, and the Ministry of External Affairs and was now at the Directorate General of Civil Aviation (DGCA) for action. Keene noted that completion of the MOU could open the way for training programs with India's sky marshals, an initiative that the Indian Embassy had requested several months ago. Nambiar was enthusiastic about prospects for establishing joint training after a needs assessment and commented to Sukul that efforts should be made to finalize the MOU. When Keene met with DGCA Director General Zaidi on August 6, Zaidi also seemed eager to finalize the agreement and said Keene should contact DGCA Director K P Maggon, the following day regarding possible final resolution of the MOU. TSA Keene met with DGCA Maggon on August 7 and DGCA Maggon made some suggestions for minor edits on the FAMS MOU which TSA Keene has forwarded to TSA's legal team. TSA Keene expects to hear back from TSA legal in the short term and will follow up with DGCA to continue to move the process forward.

INCREASED UNDERSTANDING BUT NO RESOLUTION ON VIP SCREENINGS

16. (SBU) After the highly publicized and politicized reporting of former President Kalam being publicly screened by Continental Airlines in April, the issue of VIP screenings was the most contentious issue discussed. All of TSA Rep Keene's interlocutors wanted to prevent a similar incident from occurring in the future and sought an agreed course of action. At an August 4 meeting with Keene, Continental Airline Senior Country Manager Laurent Recoura expressed relief that the Kalam incident was largely over. He said Continental was alert to the possibility of GOI VIP passengers and would redirect them to Air India (AI) when possible. He expressed a desire for clear black and white TSA rules on VIP exceptions to screening, rather than gray areas which the airlines would have to try to interpret.

17. (SBU) Nambiar acknowledged that India's current list of 31 categories of VIPs exempted from screening was excessive. He suggested a compromise of an agreed reciprocal VIP list of exemptions that, in addition to active heads of state, would include former Prime Ministers and Presidents. Nambiar said this would be approximately 5-6 individuals on the Indian side, since Prime

Ministers, Presidents and Vice Presidents traveled on private aircraft. Keene said he would forward the suggestion to TSA headquarters but did not want to unduly raise expectations that such an agreement on a reciprocal VIP list for exceptions to screening would be reached. Keene explained that TSA would be issuing clear written guidance to all airlines flying direct to the United States in the near future explaining that only active heads of state traveling with Secret Service or Diplomatic Security would be exempt from screening when boarding direct flights to the United States, but also noting that airlines could and should conduct private screenings to ensure that VIP visitors were treated with appropriate respect. Keene also explained that the Indian Embassy could also request additional limited exceptions to airport screenings in the United States for GOI VIP officials through the State Department's Office of Protocol.

18. (SBU) Nambiar agreed that rules and regulations for aviation security were of the utmost importance to ensure passenger security, but stated there was also a need for some special exemptions for iconic individuals such as President Kalam. He suggested this would require some out of the box thinking and stressed the need to work out some policy of handling lightly such individuals. Nambiar also said the current policy of having all GOI employees fly AI (for financial reasons) should avoid the problem. When reminded that AI also was subject to the same TSA requirements on direct flights to the United States, Nambiar said it would just be easier for AI to work out a policy of screening lightly while ensuring appropriate security. He also suggested that Keene and BCAS officials discuss AI's VIP screening procedures when they next met. (Note: Keene privately explained to Embassy ECONoffs that this issue would primarily be the responsibility of TSA's International Industry Representative (IIR) for AI and that he had alerted the IIR (also based in Singapore) to the issue. End note.)

19. (SBU) In Keene's August 6 meeting with BCAS officials Sahi and Malaviya, they did not bring up the VIP screening issue and focused only on the MOU, despite Keene asking if there were any other issues

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BCAS wanted to discuss. However when FSN ECON Specialist contacted BCAS later in the day regarding their request for an August 7 meeting to deal with a recent FAMS incident (relating to a FAM failing to declare ammunition), the representative noted that BCAS had not had the authority to discuss the VIP screening issue in its earlier meeting but would be prepared to do so on August 7.

110. (SBU) In the August 7 meeting, Keene provided BCAS Commissioner Sahi a TSA letter explaining the disciplinary actions that had been taken to deal with the procedural violation. Then, BCAS Deputy Commissioner Malaviya made some surprising statements while Sahi remained silent. Malaviya said that on more than one occasion, including when Malaviya traveled to the United States and met with TSA officials in May 2008, he had informed TSA that any new TSA security directives would have to conform to ICAO Standard 2.4.1. In essence, TSA would have to make a written request regarding any change in security directives and then BCAS would decide whether to approve it. Malaviya said no written request had been made with respect to the TSA requirement for secondary screenings for direct flights to the United States from India. Therefore, after the TSA security directive regarding secondary screenings was issued, BCAS asked home country carriers (Jet and AI) to disregard not only that directive but went so far as to direct them to disregard all TSA issued directives. Malaviya said no similar request had yet been made to American carriers, but remarked that would also be within BCAS's prerogative. Keene said this was the first time he heard of such discussions, asked for written memoranda on the issue (none were presented), and said he would be following up with TSA headquarters regarding Malaviya's statements. (Note: when Keene later contacted TSA headquarters, TSA officials who had been present in the meetings Malaviya mentioned stated that no such discussion had taken place. End note.)

111. (SBU) During his out-brief with the DCM (prior to the final BCAS meeting), Keene said he understood that the VIP screening issue was both a security issue and a political one and that TSA leadership was aware of and focused on the problem. That said, he was not

optimistic about a quick solution to the contradiction between BCAS's large list of VVIPs and TSA's very limited policy for exceptions from screening. He said TSA Headquarters would be convening a working group to review its VIP screening policy and that the working group would likely include a State Department Representative though constituting the group would take some time. Meanwhile, Keene planned to follow up with letters thanking his interlocutors for their meetings and to continue to work from Singapore and during regular visits to India to finalize the MOUs to facilitate greater bilateral cooperation on aviation security.

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